

data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, list of actual or potential clients or suppliers, etc., which is not commonly known by or available to the public, and which (i) derives economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other Persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Arise's Trade Secrets specifically includes any information described in this provision that Arise obtains from any third party, which Arise treats as proprietary or designates as trade secrets, whether or not owned or developed by Arise. The term "Trade Secret" does not include any materials or information of the types specified above to the extent that such materials or information: (i) are or become publicly known other than as the result of a violation of this SOW, the Agreement or any other agreement by the receiving party; or (ii) as established by documentary evidence, are known to the receiving party, prior to the receipt of such materials or information from the party claiming ownership. Failure to mark any Trade Secret as confidential will not affect its status as a Trade Secret under this SOW.

**"Vendor Personnel"** means Vendor's employees, agents, contractors and subcontractors and any others acting on Vendor's behalf or in concert with Vendor, including all Client Support Professionals.

## 2. DESCRIPTION OF SERVICES

**2.1** Vendor shall provide the services (the "Services") described in the Program Specific Appendix attached hereto and incorporated by reference into this SOW. Vendor shall perform the Services and provide the Deliverables in a manner consistent with generally accepted industry standards and in accordance with this SOW. Vendor agrees that it has adequate personnel and other resources to perform the Services as provided herein.

**2.2** Vendor will, and will cause the Vendor Personnel to, perform the Services and provide the Deliverables in compliance with any applicable federal, state and local laws, rules, regulations and ordinances, including, if applicable, the Federal Telephone Consumer Protection Act of 1991, the Federal Consumer Fraud and Abuse Prevention Act of 1994, the Telemarketing and Consumer Fraud and Abuse Prevention Act, as amended. Vendor shall procure all approvals, bonds, certificates, insurance, inspections, licenses, and permits that such laws require for the performance of this SOW. Furthermore, Vendor shall, upon request, provide any required certificate or affidavit showing compliance by Vendor and, if required, Vendor Personnel.

**2.3** Arise and Vendor acknowledge that the Services to be provided by Vendor are temporary and nonpermanent in nature.

**2.4** Vendor will, and will cause the Vendor Personnel to, provide the Services and Deliverables in compliance with (a) Arise's Vendor Code of Conduct, as updated from time to time, the current version of which is attached hereto in the Vendor Code of Conduct Appendix, (b) all security, data protection, business continuity and other requirements imposed by applicable Clients and other third parties with which Arise has business relationships, including, without limitation, cardholder information security programs and similar programs and policies promulgated by card issuers and other financial institutions, and (c) all safety and security requests, inspections and programs made by Arise (collectively with (a) and (b), the "Servicing Policies"), all of which shall be provided to or made available to Vendor by Arise in writing, including by posting the Servicing Policies to an electronic repository accessible to Vendor and notifying Vendor of the posting. Arise may update from time to time any of the Servicing Policies by providing or making available a new version thereof to Vendor. Unless otherwise specified, such updated Servicing Policy will become effective automatically after 30 days from the date it is made available or provided to Vendor. If Vendor reasonably believes that such updated Servicing Policies will impose a material cost to Vendor or that Vendor would be unable to comply with the updated Servicing Policies within the requested implementation period, then Vendor will provide prompt written notice to Arise detailing Vendor's best estimate of the expected costs and timing of implementation. Promptly following Arise's receipt of such notice, the parties will meet and discuss Vendor's concerns in good faith and attempt to agree on an approach regarding the implementation of the updated Servicing Policies. If the parties cannot reach an agreement, then Vendor may terminate this SOW.

**2.5** Vendor shall not communicate directly with any Client or such Client's customer without Arise's consent outside of the provision of Services and Deliverables.

**2.6** The parties expressly agree that this relationship is nonexclusive. Vendor acknowledges that Arise has no obligation to enter into this SOW or any other statements of work. Arise acknowledges that Vendor has no obligation to enter into this SOW or any other statements of work. Vendor is expressly free to market and perform services for other Persons during the Term of this SOW, including any competitor of Arise and Arise is

expressly free to purchase Services and Deliverables from other Persons during the term of this SOW, including any competitor of Vendor.

### 3. RESOURCES

**3.1** Vendor designates the Client Support Professional(s) named in the Program Specific Appendix as Designated CSP(s) to provide the Services on its behalf.

**3.2** Arise reserves the right to request any Vendor Personnel to submit to both drug testing and criminal background checks at any time and from time to time. Vendor Personnel who (i) refuse to submit to such tests or (ii) fail to pass any drug test or background check, as determined by Arise in its reasonable discretion, may be excluded from activity related to this SOW.

**3.3** Vendor shall supply, at its sole expense, all equipment, tools, materials and supplies to accomplish the work agreed to be performed herein.

**3.4** Vendor will provide qualified Vendor Personnel who possess the proper skill, experience and background to perform the Services and provide the Deliverables, and such Vendor Personnel will perform the Services and provide the Deliverables in a professional and workmanlike manner in accordance with generally accepted industry standards. Vendor Personnel are not employees or agents of Arise or its Clients; all such individuals will for all purposes be Vendor's employees or Vendor's agents. Vendor, and not Arise, will have the sole authority to hire, fire, direct, control, discipline, reward, evaluate, schedule, supervise, promote, suspend and/or terminate Vendor Personnel. In addition, Vendor will be solely responsible for the acts of Vendor Personnel, whether of commission or omission, and for all other charges and liabilities arising out of its employer-employee relationship or other contractual relationship with Vendor Personnel.

**3.5** Vendor agrees that it is solely responsible to compensate and provide any benefits that may be required by law (including but not limited to workers' compensation and unemployment insurance, as applicable) to Vendor Personnel, and to do so using its own funds. Vendor further acknowledges and agrees that none of the Vendor Personnel are eligible to participate in any employee benefit program maintained by Arise or any Client, including, but not limited to, bonus, vacation, health, pension, incentive compensation or other employee programs or policies, nor to receive any unemployment benefits, workers compensation benefits, or any other type of benefits or insurance from Arise or any Client. If for any reason any Vendor Personnel are deemed to be a statutory or common-law employee of Arise or any Client by any governmental agency, court, or other entity, Vendor will ensure that such persons waive any right to, and agree to neither seek nor accept, any benefits under any benefits plans maintained by Arise or any Client, even if by the terms thereof they would be eligible for such benefits.

**3.6** Upon written request, Vendor shall provide signed copies of (i) an acknowledgement and waiver agreement that includes substantially the same provisions as the "Arbitration of Claims; Class Action Waiver" Article hereof and (ii) a non-disclosure agreement that includes substantially the same provisions as the "Confidentiality" and "Personal Data" Articles hereof (collectively, the "Required Agreements") for all Vendor Personnel providing Services or Deliverables under this SOW. Failure to provide a fully executed copy of the Required Agreements may result in immediate termination of this SOW. Vendor acknowledges and expressly agrees that Arise and its Clients are intended third party beneficiaries of the Required Agreements, and the rights and remedies thereunder.

**3.7** Vendor shall be solely responsible for the withholding, filing and payment of any and all federal, state and local taxes (including but not limited to income and payroll taxes) that may be due with respect to the remuneration paid by Vendor to Vendor Personnel or any individual whom Vendor hires or otherwise engages to perform services in connection with this SOW.

**3.8** Vendor may delegate or subcontract any of Vendor's obligations under this SOW, provided, however, the following terms will apply (in addition to such other terms as may be agreed upon by the parties in writing):

- (a) In all events, Vendor shall ensure that any subcontractor agrees to be bound by the terms of this SOW;
- (b) Vendor will be responsible for and guarantee the performance of all of its subcontractors and will manage such subcontractors. Vendor will remain directly responsible in

accordance with this SOW for the performance of Services and delivery of Deliverables subcontracted by Vendor, and any terms and conditions applicable to the Services and Deliverables will continue to apply notwithstanding any such subcontracting;

- (c) Even if an inadequacy in a subcontractor's performance does not amount to a breach of this SOW, if Arise notifies Vendor that it is dissatisfied with the performance of any subcontractor, Vendor will use its best efforts to address Arise's concern regarding such subcontractor;
- (d) Vendor will be solely responsible for the payment of all subcontractors it engages; and
- (e) Vendor will not disclose to any subcontractor any Arise Information, Client Information, Personal Data or other Confidential Information unless and until that subcontractor has executed the Required Agreements. Vendor shall be liable for any use or disclosure of such information in violation of this SOW by or caused by its subcontractors. Upon request, Vendor will provide copies of such written agreements to Arise. Vendor acknowledges and expressly agrees that Arise and its Clients are intended third party beneficiaries of the Required Agreements, and the rights and remedies thereunder.

#### **4. INDEPENDENT CONTRACTOR RELATIONSHIP**

**4.1** It is the express intention of Arise and Vendor that Vendor will provide Services and Deliverables as an independent contractor to Arise. Nothing in this SOW is intended to, or shall be construed to, create a partnership, agency, joint venture, fiduciary, employment or similar relationship or to create any other form of legal association that would impose liability on one party for the act or failure to act of the other or as providing either party with the right, power or authority (express or implied) to create any duty or obligation of the other. Vendor is not authorized to make any representation, contract or commitment on behalf of Arise unless specifically requested or authorized in writing to do so by an officer of Arise with the title of Vice President or higher. Arise is not authorized to make any representation, contract or commitment on behalf of Vendor unless specifically requested or authorized in writing to do so by an authorized officer of Vendor.

**4.2** Vendor is solely responsible for, and will file, on a timely basis, all tax returns and payments required to be filed with, or made to, any federal, state or local tax authority with respect to the provision of Services and Deliverables and receipt of fees under this SOW. No part of Vendor's remuneration will be subject to withholding by Arise for the payment of any federal, state or local taxes. Arise will regularly report amounts paid to Vendor by filing Form 1099-MISC with the Internal Revenue Service as required by law. Vendor agrees to and acknowledges the obligation to pay all taxes on such amounts paid to Vendor by Arise.

**4.3** Vendor shall have exclusive control of the manner, means and details of accomplishing the Services and Deliverables that it contracts to provide under this SOW. Vendor shall be responsible for the work and activities of all Vendor Personnel, including compliance with the terms of this SOW.

**4.4** Each party shall pay all expenses whatsoever of its offices and activities and be responsible for the acts and expenses of its employees, subcontractors and agents incurred in connection with this SOW.

#### **5. CERTIFICATION REQUIREMENTS**

**5.1** Vendor shall ensure that each Designated CSP has taken and passed CSP 101, 102, and 103 and the applicable Program Certification Course (the "Program Course"). As a general condition for maintaining any certification, Vendor shall ensure that each Designated CSP meets all continuing certification requirements, including the successful completion of any additional Program certification courses required for the purpose of maintaining the applicable certification in good standing.

**5.2** The parties agree that Vendor's failure to ensure that each Designated CSP maintain Program certifications in good standing may result in the suspension or revocation of such certification or the termination of this SOW or both.

#### **6. SERVICE INTERVALS**

Arise shall electronically post time for servicing projects in half hour intervals ("Service Intervals"). Vendor shall, at its sole and absolute discretion, select and accept the specific Service Intervals during which its Designated CSP(s) will provide the Services ("Accepted Intervals"). Once Vendor selects the Service Intervals, Vendor shall cause the Designated CSP(s) (or another Client Support Professional who has taken and passed the Program Course) to be available and provide the Services during the Accepted Intervals. Arise reserves the right to remove, at its sole discretion, Accepted Intervals that become unnecessary due to a decrease in call or



contact volume of Client. Arise will use reasonable efforts to notify Vendor of any removal. Vendor may not provide Services for a Service Interval that is not an Accepted Interval without the prior consent of Arise.

## **7. SERVICE REQUIREMENTS**

**7.1** Vendor shall meet the Performance Requirements (if applicable) and the Service Level Requirements set forth in the Program Specific Appendix (collectively, the "Requirements"). Vendor will develop, manage and track the performance of each Designated CSP to ensure compliance with this requirement. Vendor must ensure that its Designated CSP(s) perform at a sufficient level to enable Vendor to meet its obligations under this SOW.

**7.2** Vendor's failure to meet one or more of the Requirements shall be deemed a breach of this SOW. In addition to other remedies provided herein, upon such failure, Arise may revoke or suspend this SOW or the applicable certifications held by the Designated CSP(s) or both.

**7.3** In the event Vendor fails to meet any Requirement and Vendor can demonstrate to Arise's reasonable satisfaction that such failure was directly caused by a) Arise or b) third parties (hired or contracted) to provide system applications or system application services to or for Arise, Arise will waive Vendor's obligation to meet such Requirement under this SOW for the time period impacted provided Vendor uses reasonable efforts to meet the Requirements.

**7.4** Arise reserves the right to waive or modify the Requirements at any time upon reasonable prior written notice to Vendor, which shall be provided to or made available to Vendor by Arise in writing, including by posting the updated Requirements to an electronic repository accessible to Vendor and notifying Vendor of the posting. Arise may update from time to time any of the Requirements by providing or making available a new version thereof to Vendor. Unless otherwise specified, such updated Requirements will become effective immediately on the date it is made available or provided to Vendor. If Vendor reasonably believes that such updated Requirements will impose a material cost to Vendor or that Vendor would be unable to comply with the updated Requirements within the requested implementation period, then Vendor will provide prompt written notice to Arise detailing Vendor's best estimate of the expected costs and timing of implementation. Promptly following Arise's receipt of such notice, the parties will meet and discuss Vendor's concerns in good faith and attempt to agree on an approach regarding the implementation of the updated Requirements. If the parties cannot reach an agreement, then Vendor may terminate this SOW upon written notice to Arise.

## **8. SECURITY**

**8.1** In providing the Services and Deliverables, Vendor shall implement, adhere to, maintain and enforce at all times reasonable security standards and procedures, in accordance with generally accepted industry practices and standards, including establishing and maintaining reasonable physical and electronic safeguards against the disclosure, destruction, loss, theft or alteration of Arise Information, Client Information, Personal Data, other Confidential Information and other Arise and applicable Client materials used in providing the Services and Deliverables. If applicable, Vendor will store all such information and data processed or used at Vendor's office in a physically secure location. Vendor will restrict access of third parties to that area.

**8.2** Vendor shall promptly notify Arise of any breach of security, including, any loss, theft, and unauthorized access, or any improper disclosure, copying, use or modification of Arise Information, Client Information, Personal Data, other Confidential Information and other Arise or Client materials used in providing the Services and Deliverables.

**8.3** Vendor shall use commercially reasonable efforts to prevent and identify all theft, damage, fraud or other misconduct perpetrated by Vendor Personnel during the conduct of the Services ("Wrongdoing"). To prevent recurrences of Wrongdoing, Vendor shall take appropriate action if Wrongdoing is perpetrated by Vendor Personnel against Arise, any Affiliate of Arise or any of their respective Clients.

**8.4** If Vendor or Arise becomes aware of, suspects, or has reason to suspect, Wrongdoing in relation to the Services, it shall immediately report such potential Wrongdoing to the other party. Vendor shall immediately and thoroughly investigate such potential Wrongdoing.

**8.5** Arise and Vendor shall immediately suspend access to all systems used in providing the Services by any person suspected of potential Wrongdoing.



8.6 If requested by Arise, Vendor shall inform local law enforcement of the potential Wrongdoing and coordinate with local enforcement. Arise may disclose any information respecting such potential wrongdoing to the applicable United States law enforcement authorities.

8.7 In any instance of suspected Wrongdoing, Vendor shall provide, within one week of Arise's request, an initial report on such potential Wrongdoing and shall thereafter provide weekly updates to its report to Arise until its investigation concludes. At the conclusion of its investigation, Vendor shall provide a detailed written report describing its process of investigation and findings.

## **9. CONFIDENTIALITY**

9.1 In addition to, and not in lieu of, any confidentiality agreements that the parties have executed during the term of Vendor's relationship with Arise (each a "Prior Confidentiality Agreement"), during the term of this SOW, and indefinitely thereafter, Vendor will maintain all Arise Information, Client Information, Personal Data and other Confidential Information in strict confidence, and will not, except as otherwise permitted herein or expressly directed in writing by Arise, use, copy, or disclose or permit any unauthorized person access to, any Arise Information, Client Information, Personal Data or other Confidential Information, whether learned by or disclosed to Vendor before or after the date of this SOW and irrespective of the form of communication. In the event of any inconsistency between this SOW and any Prior Confidentiality Agreement, the terms of this SOW shall control with respect to all Arise Information, Client Information, Personal Data and other Confidential Information disclosed after the date of this SOW.

9.2 Notwithstanding the provisions of this Confidentiality Article, Vendor may disclose Arise Information, Client Information and other Confidential Information to the extent that the information is required to be disclosed pursuant to a requirement of a governmental agency or law, provide that: (i) Vendor has given Arise prompt prior written notice of such disclosure prior thereto and takes all available steps to maintain the confidentiality of the information disclosed; and (ii) Arise has been afforded a reasonable opportunity to contest the necessity, scope and conditions of such disclosure. In any event, Vendor will furnish only that portion of the Arise Information, Client Information or other Confidential Information that is legally required to be disclosed upon the advice of counsel.

9.3 In the event that Vendor becomes aware of any breach of the confidentiality of, or any misappropriation of, any Arise Information, Client Information, Personal Data or other Confidential Information, it agrees to give prompt written notice of such circumstances to Arise.

9.4 Vendor acknowledges and agrees that, in the event of a breach or threatened breach of any of the foregoing provisions, Arise will have no adequate remedy in damages and, accordingly, will be entitled to injunctive relief against such breach or threatened breach and to enforcement of this SOW by specific performance, each without the need to prove actual damages, in addition to any other remedies available at law or in equity. Vendor waives the defense that an adequate remedy at law exists for any breach or threatened breach of this SOW and waives the requirement of a bond for injunctive relief as a remedy to protect against any breach or threatened breach of this SOW.

## **10. PERSONAL DATA**

10.1 In providing the Services and Deliverables, Vendor may have access to or use Personal Data relating to Arise employees, Arise subcontractors, the Client's customers and others. Vendor will only use Personal Data for the sole and exclusive purpose of fulfilling its obligations under this SOW and may not use or permit the use of Personal Data for any other purpose whatsoever.

10.2 Vendor acknowledges and agrees that Personal Data is the property of the individual who provided such information and Vendor has no ownership interest or other rights in and to such information.

10.3 Vendor will remain in compliance with all applicable federal, state and other applicable statutes, regulations, ordinances, and orders with respect to privacy and data security relative to Personal Data and will implement and, at all times during the Term of this SOW, maintain an effective information security program to protect Personal Data, which program includes administrative, technical, and physical safeguards sufficient to: (a) ensure the security and confidentiality of Personal Data; (b) protect against any reasonably anticipated threats or hazards to the security or integrity of such Personal Data; and (c) protect against unauthorized access to or use of Personal Data that could result in harm or inconvenience to Arise or any of its Clients or vendors.

10.4 Vendor shall not, and shall ensure that Vendor Personnel do not, retain any Personal Data for longer than is necessary for the performance of the Services or provision of the Deliverables or as required by applicable law. Vendor shall, and shall ensure that Vendor Personnel shall, securely dispose of all Personal Data

that is no longer necessary for the performance of this SOW or as required by applicable law. Personal Data entered into the data system of a Client shall only be entered to process a transaction that has been expressly authorized by the individual to whom it relates. Vendor shall, and shall ensure that Vendor Personnel shall, under no circumstance write down, screen scrape, screen capture, print, save to local media devices (such as Vendor's computer system) or save Personal Data to another storage method that may place such Personal Data in a position to be shared, given, or utilized for fraudulent initiatives or otherwise.

10.5 Vendor shall take reasonable steps to ensure the reliability and trustworthiness of Vendor Personnel, and any person acting under its supervision, who may come into contact with or otherwise have access to and process any Personal Data; and ensure that such Vendor Personnel are aware of their responsibilities under this section and any applicable data privacy law.

10.6 Where Vendor knows or reasonably suspects that a security breach has affected Personal Data, Vendor shall promptly notify Arise and cooperate with Arise in any post-breach investigation or remediation efforts.

10.7 Arise reserves the right to terminate this SOW immediately upon written notice to Vendor should a material breach of this Article occur and to pursue any and all remedies available to Arise, whether under this SOW, at law, or in equity. Notwithstanding anything to the contrary in this SOW and in addition to Arise's rights herein, Vendor will also immediately indemnify Arise, its Clients and their Affiliates from and against any costs (including without limitation any costs incurred by any of the foregoing entities in order to comply with federal and/or state security breach notification laws), claims, losses, demands, actions, allegations or liabilities, including reasonable attorneys' fees and costs of investigation, incurred by any of the foregoing as a result of an unauthorized disclosure of any Personal Data.

## 11. ARISE SUPPORT SERVICES

11.1 Arise agrees to provide the Arise Support Services to Vendor during the term of this SOW. Vendor agrees to pay Arise a fee of \$19.75 for each Designated CSP for the Arise Support Services. Such fee will be payable on a semi-monthly basis (the "Service Charge").

11.2 The Service Charge may include, but is not limited to, (i) access to and use of Arise Technology and other infrastructure; (ii) charges for technical support relating to the Arise Technology and related platforms, (iii) fees and charges that Vendor is obligated to pay directly to third-party vendors, (iv) charges paid to third-party vendors by Arise on behalf of Vendor, (v) any applicable telephony or other licenses required for the Services, (vi) the services of performance facilitator resources as requested by Vendor; and (vii) invoice support services. Vendor shall only use the Arise Support Services in connection with its provision of Services and Deliverables under the terms of this SOW, and the Arise Support Services shall not be used for any other personal or commercial purpose.

11.3 The use of the Arise Support Services is subject to the policies established by Arise from time to time (the "Support Policies"), all of which shall be provided to or made available to Vendor by Arise in writing, including by posting the Support Policies to an electronic repository accessible to Vendor and notifying Vendor of the posting. Arise may update from time to time any of the Support Policies by providing or making available a new version thereof to Vendor. Such updated Support Policy will become effective automatically after 30 days from the date it is made available or provided to Vendor. If Vendor reasonably believes that such updated Support Policies will impose a material cost to Vendor or that Vendor would be unable to comply with the updated Support Policies within the requested period, then Vendor will provide prompt written notice to Arise detailing Vendor's best estimate of the expected costs and timing of compliance. Promptly following Arise's receipt of such notice, the parties will meet and discuss Vendor's concerns in good faith and attempt to agree on an approach regarding compliance with the updated Support Policies. If the parties cannot reach an agreement, then Vendor may terminate this SOW upon written notice to Arise.

11.4 Arise hereby grants to Vendor a personal, non-exclusive, non-transferable limited use license for the use of the Arise Technology solely in connection with the Arise Support Services and Vendor's provision of the Services and Deliverables pursuant to the terms and conditions of this SOW (the "Arise License"). Vendor agrees that neither it nor any Vendor Personnel will reverse engineer, disassemble, de-compile, or otherwise attempt to derive the source code of the Arise Technology, nor shall they sublicense, modify, network, rent, lease, loan, distribute or create derivative works based upon the Arise Technology in whole or in part. Upon the termination of this SOW, Vendor agrees to delete completely the Arise Technology from its computers and any others on which the Arise Technology was installed by Vendor or Vendor Personnel, and to destroy any media on which the Arise Technology was delivered to Vendor. Except for the Arise License, no other license or permission, or right, title or interest is granted under this SOW to Vendor or Vendor Personnel under any copyright, trademark, patent or other Intellectual Property Right in the materials or products, services, processes or technology described therein. Arise, its Affiliates or any third-party owner of such rights retain all such



ownership rights, as applicable.

**11.5 LIMITED WARRANTY.** ARISE DOES NOT WARRANT THAT VENDOR'S USE OF THE ARISE SUPPORT SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES ARISE MAKE ANY WARRANTY AS TO THE RESULTS TO BE OBTAINED FROM USE OF THE ARISE SUPPORT SERVICES. THE ARISE SUPPORT SERVICES ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, OTHER THAN THOSE WARRANTIES (IF ANY) WHICH ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION, OR MODIFICATION UNDER THE LAWS APPLICABLE TO THIS SOW, ALL SUCH WARRANTIES BEING EXPRESSLY DISCLAIMED. VENDOR AGREES THAT IT WILL NOT IN ANY WAY HOLD ARISE RESPONSIBLE FOR ANY SELECTION OR RETENTION OF, OR THE ACTS OR OMISSIONS OF, THIRD PARTIES IN CONNECTION WITH THE ARISE SUPPORT SERVICES (INCLUDING THOSE WITH WHOM ARISE MAY CONTRACT TO OPERATE VARIOUS COMPONENTS OF THE ARISE SUPPORT SERVICES).

**11.6** Vendor's sole and exclusive remedy against Arise for any failure or non-performance of the Arise Support Services (including any associated software or other materials supplied in connection therewith) shall be (i) for Arise to use commercially reasonable efforts to effectuate an adjustment or repair of the Arise Support Services in a reasonably prompt manner and, (ii) if the Arise Support Services are not performing for a consecutive period of longer than two hours, Arise shall refund to Vendor a pro-rata amount of the service charge for the time of the outage. Notwithstanding anything to the contrary herein, Vendor shall not be entitled to any payment for loss of servicing opportunities with respect to any Accepted Intervals selected subsequent to the start of any outage of the Arise Support Services, or for Accepted Intervals that fall within any Arise scheduled systems maintenance period.

## **12. SERVICE REVENUE**

**12.1** Vendor shall invoice Arise and Arise shall pay for Services and Deliverables provided in Accepted Intervals on a semi-monthly basis (the "Invoice Periods") at the rate set forth in the Program Specific Appendix hereto (the "Service Revenue"). The Invoice Periods shall be the 1<sup>st</sup> to the 15<sup>th</sup> of each month and the 16<sup>th</sup> to the end of the month.

**12.2** Notwithstanding anything to the contrary, Vendor shall not be entitled to payment for Accepted Intervals serviced during which any of the following occur:

- (a) time spent in an "on-break status";
- (b) time spent in "no-answer status"; and
- (c) as otherwise defined the Program Specific Appendix.

**12.3** Vendor shall not be entitled to payment for Accepted Intervals serviced in which fraud is committed or during which the Vendor or its Designated CSP(s) engaged in other unprofessional business practices.

**12.4** The parties have 30 calendar days to dispute items included in an invoice. If either party has a bona fide dispute with respect to any item listed in an invoice, it must notify the other party in writing within 30 days of the date of that invoice. Neither party is obligated to address any issues related to the recovery of costs or corrections received later than 30 days from the date of the invoice.

## **13. VENDOR REPRESENTATIONS AND WARRANTIES**

Vendor hereby makes the following representations and warranties, which representations and warranties are a material inducement to Arise to enter into this SOW.

**13.1** Vendor is a corporation duly organized, validly existing and in good standing under the laws of the State or jurisdiction of its incorporation. Vendor has the corporate power to own, manage, lease and hold its assets and to carry on its business as and where such assets are presently located and such business is presently conducted.

**13.2** Vendor has made and will continue to make all of the filings required to remain in good standing in the State or jurisdiction of its incorporation and has not received notice from such state or jurisdiction that Vendor has been dissolved or is delinquent in any required filings.

**13.3** Vendor is engaged in an independent contractor and shall perform all obligations under this SOW as an independent contractor.



**13.4** Vendor is in the business of providing Services and Deliverables for profit, using its own facilities, equipment, employees and other assets owned, or contracted for, by Vendor.

**13.5** Vendor will perform the Services in a manner consistent with widely accepted industry standards, in a professional and workmanlike manner and specifically in accordance with this SOW. Vendor agrees that it will use the best possible technical practices, skills, procedures, care and judgment to complete all Services and Deliverables. Vendor agrees that it has adequate personnel and other resources to perform the Services. Vendor Personnel performing Services shall be considered solely the employees or subcontractors of Vendor and not employees of Arise or Client.

#### **14. REVIEW MEETINGS**

**14.1** Vendor will conduct periodic account review meetings with Arise via conference call or otherwise as mutually agreed.

**14.2** If Vendor is not meeting the Requirements, at Arise's request, Vendor will provide Arise with a plan that Vendor will use to improve its performance and results such that all Requirements contained in this SOW are met. The plan may include timelines, action steps that Vendor is taking, tracking of status, results achieved, and such other information as Arise may reasonably request.

#### **15. TERM AND TERMINATION**

**15.1** This SOW shall commence on the Effective Date and shall continue until the Expiration Date (as defined below) or until terminated as set forth below (the "Term").

**15.2** This SOW shall expire on January 15, 2015 ("Expiration Date").

**15.3** This SOW may be immediately terminated by either party at any time, with or without prior notice, for any of the following reasons:

- (a) For cause due to the non-terminating party's breach of any provision of SOW;
- (b) If a party becomes the subject of a voluntary or involuntary bankruptcy, insolvency, reorganization or liquidation proceeding; makes an assignment for the benefit of creditors; admits in writing its inability to pay its debts when due;
- (c) Unprofessional, abusive, fraudulent, illegal or dishonest business practices or any other inappropriate conduct by a party, its employees, subcontractors or agents including but not limited to conduct that unlawfully interferes with the other party's contractual or business relationships;
- (d) Upon the expiration or termination of the service agreement between Arise and the applicable Client, or the expiration or termination of the statement of work entered between Arise and the Client relating to the Program; or
- (e) As otherwise specifically set forth in this SOW.

#### **16. ARBITRATION OF CLAIMS; CLASS ACTION WAIVER**

**16.1** Arise and Vendor (for purposes of this Article 16 only, "Vendor" also includes "Vendor Personnel") hereby agree to resolve any and all disputes or claims they may have against the other, or against any Client, by final and binding arbitration pursuant to the then-current rules established by the American Arbitration Association (the "AAA"). The AAA's rules are available for review at [www.adr.org](http://www.adr.org). The nature of the claims asserted shall determine which body of AAA rules will apply. In the event that there is a dispute regarding which AAA rules apply, the AAA shall decide that issue; provided, however, that consistent with Section 16.4 in no event shall the AAA's Supplementary Rules for Class Arbitration (or any analogue thereto) apply. Arise and Vendor agree that the arbitration shall be conducted by a single arbitrator in the AAA office nearest Vendor (or such other location as is mutually agreed to by the parties), and therefore waive any objections or claims they might otherwise be able to rightfully assert based upon the inconvenience of the forum or improper jurisdiction. Unless otherwise mutually agreed, the arbitrator shall be a practicing attorney with at least 15 years of experience as an attorney and at least five years of experience as an arbitrator. In the event of a conflict between the terms of this Article 16 and the applicable arbitration rules, the terms of this Article 16 shall control.

**16.2** All parties to this SOW expressly agree that the Federal Arbitration Act governs the enforceability of any and all of the arbitration provisions of this SOW and that judgment upon the award rendered by the

arbitrator may be entered by any court of competent jurisdiction. Questions of arbitrability (that is, whether an issue is subject to arbitration under this SOW) shall be decided by the arbitrator. Procedural questions arising out of the dispute and bearing on its final disposition are also matters for the arbitrator to decide. Claims must be filed within the time set by the applicable statute(s) of limitations.

**16.3** Either party may apply for injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved, pursuant to the Optional Rules for Emergency Measures of Protection of the AAA. Those Optional Rules are available for review at [www.adr.org](http://www.adr.org). Either party also may, without waiving any remedy under this SOW, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the property rights of that party, pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the controversy).

**16.4 CLASS ACTION WAIVER.** By signing this SOW, all parties waive their right to commence, to become a party to, or to remain a participant in, any group, representative, class, collective, or hybrid action in any court against one or more other parties to this agreement or against any Client. Further, the parties waive any right to commence, to become a party to, or to remain a participant in, any group, representative, class, collective, or hybrid action claim in arbitration or any other forum against one or more parties to this SOW or against any Client. The parties agree that any claim by or against any other party to this SOW or against any Client shall be heard in arbitration without consolidation of such claim with any other person or entity's claim. All parties agree that this SOW does not limit any party's right to initiate an action in court challenging the enforceability of the group, representative, class, collective, and hybrid action waiver set forth herein. If Vendor chooses to exercise that right, Arise will not retaliate against Vendor for doing so. Arise does, however, reserve the right to oppose any such challenge to enforcement of this agreement. The parties further agree that nothing in Article 16 of this SOW precludes Vendor from participating in proceedings to adjudicate unfair labor practice charges before the National Labor Relations Board, including without limitation charges addressing the enforcement of the group, representative, class, collective, and hybrid action waiver set forth herein. Arise does, however, reserve the right to oppose any such charge, including by establishing in any such proceeding that Vendor is or was not Arise's "employee" within the meaning of the National Labor Relations Act and therefore is or was not covered by said Act.

**16.5** Either party's failure to comply with the terms set forth in this Article 16 will be deemed a material breach of this SOW.

**16.6** If any part of this Article 16, other than the waivers pursuant to Section 16.4 of the right to commence, to become a party to, or to remain a participant in, any group, representative, class, collective, or hybrid action in court, arbitration or any other forum, and of the right to consolidate claims in arbitration, is deemed or found to be unenforceable for any reason, the remaining provisions of this Article 16 shall be severable and remain enforceable. If the waiver of rights pursuant to Section 16.4 is deemed or found to be unenforceable for any reason in a case in which class action or similar allegations have been made, the entirety of this Article 16 shall be unenforceable and the parties' dispute shall be adjudicated in court.

**16.7** Vendor acknowledges and expressly agrees that the Client is an intended third party beneficiary of the provisions of this section, and the rights and remedies hereunder, and shall have the right to enforce the provisions in this Article 16.

## **17. AGREEMENT TO DO BUSINESS ELECTRONICALLY**

**17.1** Vendor agrees to do business electronically with Arise. This includes the execution of agreements, including the Agreement and this SOW, in electronic form rather than in paper form and the receipt of tax documents, including Forms 1099.

**17.2** This SOW may be executed and delivered via facsimile or other electronic transmission with the same force and effect as if it were executed and delivered by the parties simultaneously in the presence of one another.

**17.3** Vendor acknowledges and agrees that Arise may provide agreements, disclosures, notices, Servicing Policies, Support Policies, tax documents and other records to Vendor electronically by e-mail (or a link set forth in an e-mail), or online posting at an online location designated by Arise.

**17.4** Vendor agrees that Arise is not responsible for any non-receipt of agreements, notifications or disclosures due to: (i) Vendor's email address on file being invalid; (ii) if Vendor's email or Internet service provider filters the notification as "spam" or "junk mail"; (iii) there is a malfunction in Vendor's computer, browser, internet service and/or software; or (iv) for other reasons beyond Arise's control.

**17.5** BY SIGNING THIS SOW, VENDOR ACKNOWLEDGES THAT (A) IT CAN ACCESS THIS SOW COMPLETELY AND FULLY, (B) IT HAS BEEN ABLE TO READ THIS SOW; (C) THAT IT HAS SUCCESSFULLY

PRINTED OR DOWNLOADED A COPY OF THIS SOW AND (D) THAT IT AGREES TO DO ANY AND ALL BUSINESS WITH ARISE ELECTRONICALLY.

**18. NOTICE**

Any notice that is required to be provided by the parties herein may be provided by e-mail, in addition to the notice procedures set forth in the Agreement. For the provision of notices under this SOW and for other correspondence, Vendor shall ensure that it provides Arise with its current contact information, including address, phone number, and email address.

**19. APPENDICES**

The following documents are attached hereto and incorporated herein by reference:

19.1 Program Specific Appendix

19.2 Vendor Code of Conduct Appendix

**20. INSURANCE**

Vendor will secure and maintain at its sole cost and expense, during the term of this SOW, commercial general liability insurance and other standard insurance coverages in commercially reasonable amounts, including workers compensation coverage for any Vendor Personnel required to have such coverage under applicable law.

**21. COUNTERPARTS**

This SOW may be executed in one or more counterparts, each of which will constitute an original but all of which together constitute a single document.

**22. NON-WAIVER**

The failure of either party to exercise any of its rights under this SOW for breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach. No term or provision hereof will be deemed waived and no breach excused unless such waiver or consent is in writing and signed by an authorized officer of the party claimed to have waived or consented.

**23. AMENDMENT AND MODIFICATION**

No amendment, modification or addendum to this SOW will be effective unless reduced to a writing signed by duly authorized officers of both parties; provided, however, in the event that the amendment, modification or addendum is not signed by one or either party, both parties will be bound by the amendment, modification or addendum if acceptance of it can be inferred by conduct.

**24. DRAFTING AMBIGUITIES**

Each party has reviewed this SOW and has had the opportunity to discuss this agreement with counsel and other professionals. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this SOW. Article, Section and paragraph headings contained in this SOW are for reference purposes only and are not to affect the meaning or interpretation of this SOW.

**25. SEVERABILITY**

If any term or provision hereof should be held to be invalid, unenforceable, or illegal, such holding will not invalidate or render unenforceable any other provision hereof, and the remaining provisions will not be impaired thereby.

**26. THIRD PARTY BENEFICIARIES**

Except as set forth in Sections 3.6, 3.8(e), and 16.7 and as otherwise expressly specified herein, this SOW is entered into solely between, and may be enforced only by Arise and Vendor, and, will not be deemed to create any rights in third parties, including suppliers, customers or subcontractors of a party.



**27. GOVERNING LAW**

The parties agree that, to the maximum extent permitted by the law of the forum state, this SOW will be enforced and interpreted in accordance with the laws of the State of Florida, without giving effect to any choice-of-law rules that may require the application of the laws of another jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this SOW.

IN WITNESS WHEREOF, the undersigned have executed this SOW as of the date first above written.

**VENDOR:**

Certified Client Solutions, LLC

*Patricia Rice*

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Name: Patricia Rice  
Title: President

**ARISE VIRTUAL SOLUTIONS INC.:**

*Peter Schiller*

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Name: Peter Schiller  
Title: Vice President & General Manager , IB Operations

**PROGRAM SPECIFIC APPENDIX**

1. **Program.** Vendor shall provide Services for the following Program: Barnes & Noble.COM.
2. **Description of Services.** The Services shall include: inbound service calls from customers of Client regarding Barnes & Noble.Com inquiries.
3. **Designated CSP(s).** Vendor has designated the following CSP(s) to provide the Services on its behalf under this SOW: matt rice.
4. **Service Intervals.** During the term of this SOW, Vendor shall service **Ten** intervals on Sunday and/or Saturday. Intervals shall be selected in StarMatic® by Service Intervals (the "Service Requirement"). If Arise is unable to provide Vendor with enough Service Intervals to allow Vendor to meet the Service Requirement during any week, Vendor shall service the number of Service Intervals that are made available by Arise. In such circumstances, the Servicing Requirement shall be waived by Arise.
5. **Requirements.** Vendor shall be required to meet the Requirements set forth in 5.1 below while providing the Services.

**5.1 Performance Requirements.** Vendor must meet the Performance Requirements set forth in the table below. A "Star" rating shall be awarded to Vendor based on the weekly performance levels of its Designated CSP(s) (the "Star Program"). Failure to meet the threshold metrics necessary to earn a minimum of one Star based on the average of all Performance Metrics for a period of four consecutive rolling weeks shall result in the termination of this SOW. Vendor acknowledges and agrees that the results it achieved while providing services under a previous statement of work for the Program may be used to determine the Vendor's performance in the Star Program for this SOW. Such results shall be used to determine the number of Stars that Vendor has earned within a consecutive four week period. For example, if Vendor has two Stars for its last week of service under the prior SOW and earns two Stars for the first week of service under this SOW, for the purposes of the Star Program, Vendor shall be deemed to have two stars for two consecutive weeks.

Performance Requirements			
Metrics	*	**	***
Commitment Adherence	80% - 84.99%	85% - 89.99%	≥ 90%
Intervals Serviced*	< 20	20 - 29	≥ 30
Quality Scores (QA)	90% - 93%	94% - 97%	≥ 98%
Average Handle Time (AHT)	> 439	381 - 439	≤ 380
Customer Satisfaction (OSAT)	≤ 74%	75% - 84%	≥ 85%

\*Arise reserves the right to terminate this SOW if Vendor does not service at least **20** intervals per week (which requirement is inclusive of the requirements in Section 4 hereof).

**5.2** Commitment Adherence shall be calculated using the following formula:

$$[\text{Serviced Minutes} / (\text{Posted Minutes} + \text{Released Lockdown Minutes})] \times 100 = \text{Commitment Adherence Percentage}$$

For purposes of the above formula:

- "Serviced Minutes" shall mean the total number of minutes of an each Accepted Interval that were actually serviced by the Vendor.
- "Posted Minutes" shall mean the number of minutes determined by adding (i) the number of Accepted Intervals multiplied by 30 minutes per interval and (ii) the number of additional minutes serviced as part of the Vendor's acceptance of any urgent service request.
- "Released Lockdown Minutes" shall mean the total number of minutes of each Accepted Interval that were released within 48 hours of the commencement of that particular Accepted Interval. Minutes of an Accepted Interval that have been "swapped" in Starmatic® and serviced by another CSP shall not be deemed Released Lockdown Minutes.

6. **Service Revenue.**

6.1 The Service Revenue to be paid to the Vendor by Arise for the provision of the Services during the Invoice Period shall be calculated using the greater of either the Base Service Revenue [(a) below] or the Alternate Base Service Revenue [(b) below]:

- (a) **Base Service Revenue:** The Base Service Revenue shall be calculated using the rate of \$1.45 per Call multiplied by the total number of Calls serviced under this SOW during the Invoice Period. A "Call" is defined as an inbound call from Client's customer and includes talk time, hold time, and transfer time.

-OR-

- (b) **Alternate Base Service Revenue:** The rate of \$4.00 per Service Interval multiplied by the total number of intervals serviced under this SOW during the Invoice Period.

6.2 Service Revenue shall not be paid for the following:

- (a) Short Calls: Calls of a duration of 30 seconds or less.

7. **Miscellaneous.**

7.1 **Limited Use License.** Arise hereby grants Vendor a personal, non-exclusive, non-transferable Limited Use License for the Vendor's use of the Arise Secure Desktop Environment ("SDE") only in connection with the Vendor's provision of Services pursuant to the terms hereof. Vendor shall utilize the SDE at all times during the provision of Services. Any reproduction or redistribution of the SDE is strictly prohibited. Vendor is not licensed or permitted to do any of the following: (1) make any copies of the SDE, or allow any other person to use the SDE (except Designated CSP(s)); (2) rent, loan, resell or distribute the SDE to any other person or entity; (3) make the SDE available on any file-sharing service; (4) decompile, disassemble, or otherwise reverse engineer the SDE; or (5) use the SDE for any commercial purpose other than for providing Services under the terms and conditions of this SOW. Vendor shall that return the SDE to Arise immediately upon termination or expiration of this SOW.



**VENDOR CODE OF CONDUCT APPENDIX**

This Vendor Code of Conduct ("Code of Conduct") applies to all Vendors who provide services and goods to Arise or any of its affiliates ("Arise"). Vendors must be committed to the highest standards of ethical conduct. This Code of Conduct sets forth the basic requirements that all Vendors must comply with in order to do business with Arise. If Arise believes that any Vendor has violated this Code of Conduct, Arise has the right to terminate its business relationship with the Vendor and to proceed to secure any and all other rights and remedies available to it. Arise reserves the right to reasonably change the requirements of the Code of Conduct and, in such event, with notice to the Vendor, expects the Vendor to accept such reasonable changes.

**1. Compliance with Laws and Arise Policies.** Vendors must fully comply with all applicable national and/or local laws and regulations and Arise policies. To the extent that Arise policies impose a higher standard than what is required by applicable national and/or local laws and regulations on its Vendors, such higher standard will prevail.

**2. Forced Labor.** Vendors shall not use any form of forced, bonded, indentured, trafficked, slave or prison labor, with the exception of government approved programs that utilize convicts or prisoners on parole, supervised release or on probation or in any penal or reformatory institution. All work must be voluntary and workers shall be free to leave work or terminate their employment with reasonable notice. All workers must not be required to surrender any government-issued identification, passports or work permits as a condition of employment.

**3. Child Labor.** Child labor is strictly prohibited. The minimum age for employment shall be the higher of 16 years of age, the minimum age for employment in that country or the minimum age completing compulsory education in the applicable country.

**4. Compensation.** Vendors shall pay all workers at least the minimum wage and benefits required by applicable laws and regulations. Workers shall be compensated for overtime hours and the premium rate required by applicable laws and regulations.

**5. Freedom of Association.** Vendors must respect the rights of all employees to lawfully associate or not to associate with groups of their choosing, as long as such groups are permitted by law. Vendors should not unlawfully interfere with, obstruct or prevent legitimate, lawful employee associations and related activities.

**6. Employment Practices.** Vendors must have hiring practices that verify accurately age and ability to work legally.

**7. Sourcing.** Arise requires all Vendors supplying goods and services to Arise to share Arise's commitment of utilizing small business in subcontracting opportunities relating to their Arise contracts. If any subcontracting occurs, the performance of such subcontractors, consultants, agents or representatives ("Subcontractors") must be consistent with Vendor's performance of their contracts with Arise.

**8. Health and Safety.** If applicable, Vendors shall provide all workers with a safe work environment and shall provide all workers with appropriate personal protective equipment and workplace health and safety information and training.

**9. Environment.** Vendors must comply with all national and local environmental laws applicable to air emissions, waste handling and disposal, water use, wastewater discharges, and hazardous and toxic substances. If applicable, Vendors shall also validate and maintain records demonstrating that source materials were harvested in accordance with all international treaties in addition to national and local laws.

**10. Conflicts of Interest.** Vendors are expected to make decisions in the best interest of Arise and its clients when providing services to Arise. Some common "conflicts of interest" and Arise's rules regarding them are listed below:

- a) Vendors may not offer cash, lavish or inappropriate gifts or entertainment to an Arise employee or to a third party on behalf of Arise or Arise's clients.
- b) Gifts and entertainment should never be given or accepted from those doing business with or seeking to do business with Arise or Vendor if the purpose is to unduly influence the judgment and decisions of those involved. Gifts and entertainment may be given or accepted in limited situations provided that doing so is consistent with applicable law and the value is nominal.
- c) Vendors may not act upon information received due to their relationship with the Arise or Arise's clients for their own benefit or take advantage of a business opportunity that belongs to Arise or Arise's clients;
- d) Vendors should not accept improper personal benefits, such as loans or favors, as a result of their relationship with Arise or Arise's clients.
- e) Vendors are expected to disclose actual or potential conflicts of interest to Arise management.

**11. Subcontractors.** Vendors shall not retain any Subcontractors without a thorough documented examination of the Subcontractor's person, reputation and integrity. In addition, Vendors shall not retain any Subcontractors in connection with their provision of services or goods to Arise unless the Subcontractors comply with this Code of Conduct. Vendors must remain responsible for ensuring that their Subcontractors comply with the Code of Conduct.

**12. Anti-Corruption.** Vendors must not tolerate, permit, or engage in bribery, corruption or unethical practices whether in dealings with public officials or individuals in the private sectors. Vendors must conduct business in compliance with all applicable laws and shall avoid engaging in any activity in which could be deemed a corrupt and/or unethical practice. Vendors must maintain integrity, transparency and accuracy in all records of matters relating to their business with Arise. For the purpose of obtaining or retaining business for the benefit of Arise, Vendors must not make or receive, offer to make or receive, or cause another to make or receive, payments or anything of value, to or from any public or private officials.

**13. Insider Trading.** Buying or selling securities—such as stock or options—on the basis of information about Arise's publically traded clients that is not publicly available is prohibited. Likewise, providing such information to any other person who buys or sells securities, otherwise known as "tipping," is prohibited. Such transactions are known as "insider trading" and prohibited by law and this Code of Conduct.

**14. Confidentiality and Intellectual Property.** All Vendors and their representatives are expected to maintain the confidentiality or information entrusted to them by Arise, including information regarding Arise clients and their customers. Vendors must respect and protect the intellectual property rights of Arise and its clients and maintain the confidentiality of trade secrets and/or Arise proprietary or confidential information, which includes any information that is nonpublic or not easily obtained or determined. Vendor shall not use stolen or misappropriated technology.

**15. Media or Government Inquiries.** Only designated representatives may comment on or respond to requests for information from the media, analysts, shareholders or government agencies regarding matters associated with Arise or Arise's clients. Vendors must not provide comments or respond in any way and must refer any such questions or requests to Arise management immediately.

**16. Accurate Books and Records.** Vendors must not hide, fail to record or make false entries in connection with any business records. All records are expected to accurately reflect all associated transactions, must be filed in a timely fashion and must conform to applicable laws and any requirements that Arise makes known to its Vendors. Vendors must not falsify financial or business records or make false statements to our internal or external auditors. Doing so violates this Code and may also violate applicable laws.

**17. Enforcement.** Arise, by itself or with the assistance of a third party, may take affirmative measures, such as announced and unannounced inspections of Vendor facilities, to ensure compliance with this Code of Conduct. Vendors must maintain all documents to demonstrate compliance with this Code of Conduct and shall make such documents available to Arise upon request.

**18. Whistleblower Protection.** Vendors shall create programs to ensure protection of worker whistleblower confidentiality and prohibit retaliation against workers who participate in such programs in good faith or refuse an order that is in violation of the Code of Conduct.

Patricia Rice (Signed: 11/9/2014 4:42:54 PM)

Signature Information

**DOCUMENT CERTIFICATION:**

The document displayed above was sealed at the time of signing with a cryptographic signature. This document has been retrieved from the signed document repository and the digital seal has been checked to detect document tampering.

The security status of this document is: **Valid**.

The document shown above is certified as Valid and unaltered since signing.

The copy of the document that was verified and that you are viewing now resides on this server in the secure document archive.

Your local copy (if any) has not been verified.



**STATEMENT OF WORK TO THE MASTER SERVICES AGREEMENT  
BARNES & NOBLES EMAIL PROGRAM**

This Statement of Work ("SOW") is a legal agreement dated November 14, 2014 (the "Effective Date") between Certified Client Solutions, LLC ("Vendor") and Arise Virtual Solutions Inc. ("Arise"). Collectively, Arise and Vendor shall be referred to as the "parties" and individually as a "party". If this SOW conflicts with the terms and conditions of the Agreement (as defined below), the terms and conditions of this SOW shall control.

The parties have previously entered in to a Master Services Agreement (the "Agreement") pursuant to which Vendor agreed to provide certain services to Arise; and

Arise desires to engage Vendor pursuant to this SOW to provide certain services, and Vendor desires to accept such engagement.

In consideration of the foregoing and the mutual promises and covenants set forth herein, and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

**1. DEFINITIONS**

Capitalized terms used in this SOW shall have the meanings set forth in the Agreement unless otherwise specifically defined in this SOW. In addition to the terms defined elsewhere herein, as used in this SOW, the following terms have the meanings specified below when used with initial capital letters:

**"Affiliate(s)"** means, with respect to any Person, any other Person which directly or indirectly controls, is controlled by or is under common control with such Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of the applicable entity whether through the ownership of voting securities or otherwise.

**"Arise Information"** means any and all Confidential Information of Arise and its Affiliates, Trade Secrets of Arise and its Affiliates, Arise Technology, Intellectual Property Rights of Arise and its Affiliates, and other information provided by or on behalf of Arise or its Affiliates to Vendor either prior to or during the term of this SOW, or which is otherwise deduced, provided or developed by Vendor therefrom, in whatever form and whether existing singularly or in combination with other materials, which was authored, created or developed, solely by or for Arise or its Affiliates or collaboratively with others, or is otherwise owned by Arise or its Affiliates.

**"Arise Support Services"** includes access to, licenses for and use of the Arise Technology, the Arise network and the Arise portal, as well as (a) technical and administrative support services provided by Arise or its Affiliates to Vendor from time to time upon request, (b) the services of performance facilitator resources as requested by Vendor; and (c) invoice support services.

**"Arise Technology"** means Arise's patented virtual scheduling and communication system and software trademarked as "StarMatic®", Arise's proprietary secure desktop technology, Arise's telephony systems and any other systems, technology, methodologies or intellectual property that Arise or its Affiliates might provide to Vendor from time to time in connection with Vendor's use of the Arise Support Services or provision of Services and Deliverables.

**"Client"** means a Person that receives business process outsourcing or other services pursuant to the terms of an agreement between such Person and Arise.

**"Client Information"** means any and all Confidential Information of Client and its Affiliates, Trade Secrets of Client and its Affiliates, Intellectual Property Rights of Client and its Affiliates, and other information provided by or on behalf of a Client or its Affiliates to Vendor either prior to or during the term of this SOW, or which is otherwise deduced, provided or developed by Vendor therefrom, in whatever form and whether existing singularly or in combination with other materials, which was authored, created or developed, solely by or for Client or its Affiliates or collaboratively with others, or is otherwise owned by Client or its Affiliates.

**"Client Support Professional" or "CSP"** means the Vendor Personnel who is certified to provide services on behalf of the Vendor from remote locations on various client programs. A "Client Support Professional" may also be referred to as a "CyberAgent", "Arise Certified Professional" or "ACP" in the Agreement.

**"Confidential Information"** means any data or information in any media including, without limitation,

GENERAL COUNSEL EXHIBIT NO. 4

communicated or contained in writing, verbally, electronically, etc., including Trade Secrets, that is of value and is not generally known. To the extent consistent with the foregoing, "Confidential Information" includes, but is not limited to, the Agreement and this SOW; any Personal Data; any and all information about a Person's business, business prospects, market share data, finances and accounts, processes, systems, infrastructure or business methods; any and all information regarding a Person's employees; and contracts and contractual relations with a Person's vendors and suppliers. "Confidential Information" also includes any compilation or organization of information which divided into individually segregated segments may not be deemed confidential but in its organized, completed format is unique, proprietary and confidential to a Person. Confidential Information includes any information which a Person obtains from third parties, which such Person treats as proprietary or designates as confidential information, whether or not owned or developed by that Person. The term "Confidential Information" does not include any materials or information to the extent that such materials or information: (a) are or become publicly known other than as the result of a violation of this SOW, the Agreement or any other agreement by the receiving party; or (b) are known to the receiving party on a non-confidential basis, prior to the receipt of such materials or information from the disclosing party (as clearly evidenced by the receiving party's written records); provided, however that to the extent that Personal Data constitutes Confidential Information such exceptions do not apply. Failure to mark any Confidential Information as confidential will not affect its status as Confidential Information under this SOW.

**"Deliverable(s)"** means any and all information, works, drawings, documents, designs, specifications, graphics, data, inventions, discoveries, improvements, works of authorship, creative works, ideas, knowledge, know-how, content, and other tangible and intangible materials, in whatever form and whether existing singularly or in combination with other materials, which are authored, prepared, created, delivered or developed, solely or collaboratively with others, by Vendor in connection with the performance of its obligations under or in anticipation of this SOW.

**"Designated CSP(s)"** means the Client Support Professional(s) identified by Vendor as Designated CSP (s) in the Program Specific Appendix to provide services under this SOW.

**"Intellectual Property Right(s)"** means (a) all copyright rights under the copyright laws of the United States and all countries for the full term thereof (and including all rights accruing by virtue of bilateral or international copyright treaties and conventions), whether registered or unregistered, including, but not limited to, all renewals, extensions, reversions or restorations of copyrights now or hereafter provided for by law and all rights to make applications for copyright registrations and recordings, regardless of the medium of fixation or means of expression; (b) all rights to and under all new and useful, patentable and unpatentable inventions, discoveries, designs, technology and art, including but not limited to, all improvements thereof and all know-how related thereto, including all letters patent and patent applications in the United States and all other countries (and all letters patent that issue therefrom) and all reissues, reexaminations, extensions, renewals, divisions and continuations (including continuations-in-parts and continuing prosecution applications) thereof, for the full term thereof; (c) all statutory and common law trademark and service mark rights and all applications and registrations to issue therefrom under all intellectual property laws of the United States, each U.S. state, and all other countries for the full term and any renewals thereof; (d) any and all internet domain names and applications therefor and URLs; (e) electronic or other databases to the extent protected by intellectual property or other law in any jurisdiction; (f) all Trade Secrets; (g) all know-how; and (h) all worldwide intellectual property rights, industrial property rights, proprietary rights and common law rights, whether registered or unregistered, not otherwise included in the foregoing, including, without limitation, all trade dress, algorithms, concepts, processes, method and protocols.

**"Person"** means any natural person, partnership, trust, estate, association, limited liability company, corporation, custodian, nominee, governmental body or agency, body politic or any other entity in its own or any representative capacity.

**"Personal Data"** means any information relating to an identified or identifiable natural person, including but not limited to, an individual's financial account number, social security number, credit or debit card numbers, and other credit or debit card data, driver's license number or other government-issued identification number, financial account password or PIN, mother's maiden name, biometric or health data, answers to security questions or other personal data that could allow access to financial accounts or that can be used to facilitate identity theft.

**"Program"** is the project defined in the Program Specific Appendix attached hereto.

**"Trade Secrets"** means, without limitation and without regard to form, any technical or non-technical



data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, list of actual or potential clients or suppliers, etc., which is not commonly known by or available to the public, and which (i) derives economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other Persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Arise's Trade Secrets specifically includes any information described in this provision that Arise obtains from any third party, which Arise treats as proprietary or designates as trade secrets, whether or not owned or developed by Arise. The term "Trade Secret" does not include any materials or information of the types specified above to the extent that such materials or information: (i) are or become publicly known other than as the result of a violation of this SOW, the Agreement or any other agreement by the receiving party; or (ii) as established by documentary evidence, are known to the receiving party, prior to the receipt of such materials or information from the party claiming ownership. Failure to mark any Trade Secret as confidential will not affect its status as a Trade Secret under this SOW.

**"Vendor Personnel"** means Vendor's employees, agents, contractors and subcontractors and any others acting on Vendor's behalf or in concert with Vendor, including all Client Support Professionals.

## 2. DESCRIPTION OF SERVICES

**2.1** Vendor shall provide the services (the "Services") described in the Program Specific Appendix attached hereto and incorporated by reference into this SOW. Vendor shall perform the Services and provide the Deliverables in a manner consistent with generally accepted industry standards and in accordance with this SOW. Vendor agrees that it has adequate personnel and other resources to perform the Services as provided herein.

**2.2** Vendor will, and will cause the Vendor Personnel to, perform the Services and provide the Deliverables in compliance with any applicable federal, state and local laws, rules, regulations and ordinances, including, if applicable, the Federal Telephone Consumer Protection Act of 1991, the Federal Consumer Fraud and Abuse Prevention Act of 1994, the Telemarketing and Consumer Fraud and Abuse Prevention Act, as amended. Vendor shall procure all approvals, bonds, certificates, insurance, inspections, licenses, and permits that such laws require for the performance of this SOW. Furthermore, Vendor shall, upon request, provide any required certificate or affidavit showing compliance by Vendor and, if required, Vendor Personnel.

**2.3** Arise and Vendor acknowledge that the Services to be provided by Vendor are temporary and nonpermanent in nature.

**2.4** Vendor will, and will cause the Vendor Personnel to, provide the Services and Deliverables in compliance with (a) Arise's Vendor Code of Conduct, as updated from time to time, the current version of which is attached hereto in the Vendor Code of Conduct Appendix, (b) all security, data protection, business continuity and other requirements imposed by applicable Clients and other third parties with which Arise has business relationships, including, without limitation, cardholder information security programs and similar programs and policies promulgated by card issuers and other financial institutions, and (c) all safety and security requests, inspections and programs made by Arise (collectively with (a) and (b), the "Servicing Policies"), all of which shall be provided to or made available to Vendor by Arise in writing, including by posting the Servicing Policies to an electronic repository accessible to Vendor and notifying Vendor of the posting. Arise may update from time to time any of the Servicing Policies by providing or making available a new version thereof to Vendor. Unless otherwise specified, such updated Servicing Policy will become effective automatically after 30 days from the date it is made available or provided to Vendor. If Vendor reasonably believes that such updated Servicing Policies will impose a material cost to Vendor or that Vendor would be unable to comply with the updated Servicing Policies within the requested implementation period, then Vendor will provide prompt written notice to Arise detailing Vendor's best estimate of the expected costs and timing of implementation. Promptly following Arise's receipt of such notice, the parties will meet and discuss Vendor's concerns in good faith and attempt to agree on an approach regarding the implementation of the updated Servicing Policies. If the parties cannot reach an agreement, then Vendor may terminate this SOW.

**2.5** Vendor shall not communicate directly with any Client or such Client's customer without Arise's consent outside of the provision of Services and Deliverables.

**2.6** The parties expressly agree that this relationship is nonexclusive. Vendor acknowledges that Arise has no obligation to enter into this SOW or any other statements of work. Arise acknowledges that Vendor has no obligation to enter into this SOW or any other statements of work. Vendor is expressly free to market and perform services for other Persons during the Term of this SOW, including any competitor of Arise and Arise is



expressly free to purchase Services and Deliverables from other Persons during the term of this SOW, including any competitor of Vendor.

### 3. RESOURCES

**3.1** Vendor designates the Client Support Professional(s) named in the Program Specific Appendix as Designated CSP(s) to provide the Services on its behalf.

**3.2** Arise reserves the right to request any Vendor Personnel to submit to both drug testing and criminal background checks. Vendor Personnel who (i) refuse to submit to such tests or (ii) fail to pass any drug test or background check, as determined by Arise in its reasonable discretion, may be excluded from activity related to this SOW.

**3.3** Vendor shall supply, at its sole expense, all equipment, tools, materials and supplies to accomplish the work agreed to be performed herein.

**3.4** Vendor will provide qualified Vendor Personnel who possess the proper skill, experience and background to perform the Services and provide the Deliverables, and such Vendor Personnel will perform the Services and provide the Deliverables in a professional and workmanlike manner in accordance with generally accepted industry standards. Vendor Personnel are not employees or agents of Arise or its Clients; all such individuals will for all purposes be Vendor's employees or Vendor's agents. Vendor, and not Arise, will have the sole authority to hire, fire, direct, control, discipline, reward, evaluate, schedule, supervise, promote, suspend and/or terminate Vendor Personnel. In addition, Vendor will be solely responsible for the acts of Vendor Personnel, whether of commission or omission, and for all other charges and liabilities arising out of its employer-employee relationship or other contractual relationship with Vendor Personnel.

**3.5** Vendor agrees that it is solely responsible to compensate and provide any benefits that may be required by law (including but not limited to workers' compensation and unemployment insurance, as applicable) to Vendor Personnel, and to do so using its own funds. Vendor further acknowledges and agrees that none of the Vendor Personnel are eligible to participate in any employee benefit program maintained by Arise or any Client, including, but not limited to, bonus, vacation, health, pension, incentive compensation or other employee programs or policies, nor to receive any unemployment benefits, workers compensation benefits, or any other type of benefits or insurance from Arise or any Client. If for any reason any Vendor Personnel are deemed to be a statutory or common-law employee of Arise or any Client by any governmental agency, court, or other entity, Vendor will ensure that such persons waive any right to, and agree to neither seek nor accept, any benefits under any benefits plans maintained by Arise or any Client, even if by the terms thereof they would be eligible for such benefits.

**3.6** Upon written request, Vendor shall provide signed copies of (i) an acknowledgement and waiver agreement that includes substantially the same provisions as the "Arbitration of Claims; Class Action Waiver" Article hereof and (ii) a non-disclosure agreement that includes substantially the same provisions as the "Confidentiality" and "Personal Data" Articles hereof (collectively, the "Required Agreements") for all Vendor Personnel providing Services or Deliverables under this SOW. Failure to provide a fully executed copy of the Required Agreements may result in immediate termination of this SOW. Vendor acknowledges and expressly agrees that Arise and its Clients are intended third party beneficiaries of the Required Agreements, and the rights and remedies thereunder.

**3.7** Vendor shall be solely responsible for the withholding, filing and payment of any and all federal, state and local taxes (including but not limited to income and payroll taxes) that may be due with respect to the remuneration paid by Vendor to Vendor Personnel or any individual whom Vendor hires or otherwise engages to perform services in connection with this SOW.

**3.8** Vendor may delegate or subcontract any of Vendor's obligations under this SOW, provided, however, the following terms will apply (in addition to such other terms as may be agreed upon by the parties in writing):

- (a) In all events, Vendor shall ensure that any subcontractor agrees to be bound by the terms of this SOW;
- (b) Vendor will be responsible for and guarantee the performance of all of its subcontractors and will manage such subcontractors. Vendor will remain directly responsible in

accordance with this SOW for the performance of Services and delivery of Deliverables subcontracted by Vendor, and any terms and conditions applicable to the Services and Deliverables will continue to apply notwithstanding any such subcontracting;

- (c) Even if an inadequacy in a subcontractor's performance does not amount to a breach of this SOW, if Arise notifies Vendor that it is dissatisfied with the performance of any subcontractor, Vendor will use its best efforts to address Arise's concern regarding such subcontractor;
- (d) Vendor will be solely responsible for the payment of all subcontractors it engages; and
- (e) Vendor will not disclose to any subcontractor any Arise Information, Client Information, Personal Data or other Confidential Information unless and until that subcontractor has executed the Required Agreements. Vendor shall be liable for any use or disclosure of such information in violation of this SOW by or caused by its subcontractors. Upon request, Vendor will provide copies of such written agreements to Arise. Vendor acknowledges and expressly agrees that Arise and its Clients are intended third party beneficiaries of the Required Agreements, and the rights and remedies thereunder.

#### **4. INDEPENDENT CONTRACTOR RELATIONSHIP**

**4.1** It is the express intention of Arise and Vendor that Vendor will provide Services and Deliverables as an independent contractor to Arise. Nothing in this SOW is intended to, or shall be construed to, create a partnership, agency, joint venture, fiduciary, employment or similar relationship or to create any other form of legal association that would impose liability on one party for the act or failure to act of the other or as providing either party with the right, power or authority (express or implied) to create any duty or obligation of the other. Vendor is not authorized to make any representation, contract or commitment on behalf of Arise unless specifically requested or authorized in writing to do so by an officer of Arise with the title of Vice President or higher. Arise is not authorized to make any representation, contract or commitment on behalf of Vendor unless specifically requested or authorized in writing to do so by an authorized officer of Vendor.

**4.2** Vendor is solely responsible for, and will file, on a timely basis, all tax returns and payments required to be filed with, or made to, any federal, state or local tax authority with respect to the provision of Services and Deliverables and receipt of fees under this SOW. No part of Vendor's remuneration will be subject to withholding by Arise for the payment of any federal, state or local taxes. Arise will regularly report amounts paid to Vendor by filing Form 1099-MISC with the Internal Revenue Service as required by law. Vendor agrees to and acknowledges the obligation to pay all taxes on such amounts paid to Vendor by Arise.

**4.3** Vendor shall have exclusive control of the manner, means and details of accomplishing the Services and Deliverables that it contracts to provide under this SOW. Vendor shall be responsible for the work and activities of all Vendor Personnel, including compliance with the terms of this SOW.

**4.4** Each party shall pay all expenses whatsoever of its offices and activities and be responsible for the acts and expenses of its employees, subcontractors and agents incurred in connection with this SOW.

#### **5. CERTIFICATION REQUIREMENTS**

**5.1** Vendor shall ensure that each Designated CSP has taken and passed CSP 101, 102, and 103 and the applicable Program Certification Course (the "Program Course"). As a general condition for maintaining any certification, Vendor shall ensure that each Designated CSP meets all continuing certification requirements, including the successful completion of any additional Program certification courses required for the purpose of maintaining the applicable certification in good standing.

**5.2** The parties agree that Vendor's failure to ensure that each Designated CSP maintain Program certifications in good standing may result in the suspension or revocation of such certification or the termination of this SOW or both.

#### **6. SERVICE INTERVALS**

Arise shall electronically post time for servicing projects in half hour intervals ("Service Intervals"). Vendor shall, at its sole and absolute discretion, select and accept the specific Service Intervals during which its

Designated CSP(s) will provide the Services ("Accepted Intervals"). Once Vendor selects the Service Intervals, Vendor shall cause the Designated CSP(s) (or another Client Support Professional who has taken and passed the Program Course) to be available and provide the Services during the Accepted Intervals. Arise reserves the right to remove, at its sole discretion, Accepted Intervals that become unnecessary due to a decrease in call or contact volume of Client. Arise will use reasonable efforts to notify Vendor of any removal. Vendor may not provide Services for a Service Interval that is not an Accepted Interval without the prior consent of Arise.

## **7. SERVICE REQUIREMENTS**

**7.1** Vendor shall meet the Performance Requirements (if applicable) and the Service Level Requirements set forth in the Program Specific Appendix (collectively, the "Requirements"). Vendor will develop, manage and track the performance of each Designated CSP to ensure compliance with this requirement. Vendor must ensure that its Designated CSP(s) perform at a sufficient level to enable Vendor to meet its obligations under this SOW.

**7.2** Vendor's failure to meet one or more of the Requirements shall be deemed a breach of this SOW. In addition to other remedies provided herein, upon such failure, Arise may revoke or suspend this SOW or the applicable certifications held by the Designated CSP(s) or both.

**7.3** In the event Vendor fails to meet any Requirement and Vendor can demonstrate to Arise's reasonable satisfaction that such failure was directly caused by a) Arise or b) third parties (hired or contracted) to provide system applications or system application services to or for Arise, Arise will waive Vendor's obligation to meet such Requirement under this SOW for the time period impacted provided Vendor uses reasonable efforts to meet the Requirements.

**7.4** Arise reserves the right to waive or modify the Requirements at any time upon reasonable prior written notice to Vendor, which shall be provided to or made available to Vendor by Arise in writing, including by posting the updated Requirements to an electronic repository accessible to Vendor and notifying Vendor of the posting. Arise may update from time to time any of the Requirements by providing or making available a new version thereof to Vendor. Unless otherwise specified, such updated Requirements will become effective immediately on the date it is made available or provided to Vendor. If Vendor reasonably believes that such updated Requirements will impose a material cost to Vendor or that Vendor would be unable to comply with the updated Requirements within the requested implementation period, then Vendor will provide prompt written notice to Arise detailing Vendor's best estimate of the expected costs and timing of implementation. Promptly following Arise's receipt of such notice, the parties will meet and discuss Vendor's concerns in good faith and attempt to agree on an approach regarding the implementation of the updated Requirements. If the parties cannot reach an agreement, then Vendor may terminate this SOW upon written notice to Arise.

## **8. SECURITY**

**8.1** In providing the Services and Deliverables, Vendor shall implement, adhere to, maintain and enforce at all times reasonable security standards and procedures, in accordance with generally accepted industry practices and standards, including establishing and maintaining reasonable physical and electronic safeguards against the disclosure, destruction, loss, theft or alteration of Arise Information, Client Information, Personal Data, other Confidential Information and other Arise and applicable Client materials used in providing the Services and Deliverables. If applicable, Vendor will store all such information and data processed or used at Vendor's office in a physically secure location. Vendor will restrict access of third parties to that area.

**8.2** Vendor shall promptly notify Arise of any breach of security, including, any loss, theft, and unauthorized access, or any improper disclosure, copying, use or modification of Arise Information, Client Information, Personal Data, other Confidential Information and other Arise or Client materials used in providing the Services and Deliverables.

**8.3** Vendor shall use commercially reasonable efforts to prevent and identify all theft, damage, fraud or other misconduct perpetrated by Vendor Personnel during the conduct of the Services ("Wrongdoing"). To prevent recurrences of Wrongdoing, Vendor shall take appropriate action if Wrongdoing is perpetrated by Vendor Personnel against Arise, any Affiliate of Arise or any of their respective Clients.

**8.4** If Vendor or Arise becomes aware of, suspects, or has reason to suspect, Wrongdoing in relation to the Services, it shall immediately report such potential Wrongdoing to the other party. Vendor shall



immediately and thoroughly investigate such potential Wrongdoing.

**8.5** Arise and Vendor shall immediately suspend access to all systems used in providing the Services by any person suspected of potential Wrongdoing.

**8.6** If requested by Arise, Vendor shall inform local law enforcement of the potential Wrongdoing and coordinate with local enforcement. Arise may disclose any information respecting such potential wrongdoing to the applicable United States law enforcement authorities.

**8.7** In any instance of suspected Wrongdoing, Vendor shall provide, within one week of Arise's request, an initial report on such potential Wrongdoing and shall thereafter provide weekly updates to its report to Arise until its investigation concludes. At the conclusion of its investigation, Vendor shall provide a detailed written report describing its process of investigation and findings.

## **9. CONFIDENTIALITY**

**9.1** In addition to, and not in lieu of, any confidentiality agreements that the parties have executed during the term of Vendor's relationship with Arise (each a "Prior Confidentiality Agreement"), during the term of this SOW, and indefinitely thereafter, Vendor will maintain all Arise Information, Client Information, Personal Data and other Confidential Information in strict confidence, and will not, except as otherwise permitted herein or expressly directed in writing by Arise, use, copy, or disclose or permit any unauthorized person access to, any Arise Information, Client Information, Personal Data or other Confidential Information, whether learned by or disclosed to Vendor before or after the date of this SOW and irrespective of the form of communication. In the event of any inconsistency between this SOW and any Prior Confidentiality Agreement, the terms of this SOW shall control with respect to all Arise Information, Client Information, Personal Data and other Confidential Information disclosed after the date of this SOW.

**9.2** Notwithstanding the provisions of this Confidentiality Article, Vendor may disclose Arise Information, Client Information and other Confidential Information to the extent that the information is required to be disclosed pursuant to a requirement of a governmental agency or law, provide that: (i) Vendor has given Arise prompt prior written notice of such disclosure prior thereto and takes all available steps to maintain the confidentiality of the information disclosed; and (ii) Arise has been afforded a reasonable opportunity to contest the necessity, scope and conditions of such disclosure. In any event, Vendor will furnish only that portion of the Arise Information, Client Information or other Confidential Information that is legally required to be disclosed upon the advice of counsel.

**9.3** In the event that Vendor becomes aware of any breach of the confidentiality of, or any misappropriation of, any Arise Information, Client Information, Personal Data or other Confidential Information, it agrees to give prompt written notice of such circumstances to Arise.

**9.4** Vendor acknowledges and agrees that, in the event of a breach or threatened breach of any of the foregoing provisions, Arise will have no adequate remedy in damages and, accordingly, will be entitled to injunctive relief against such breach or threatened breach and to enforcement of this SOW by specific performance, each without the need to prove actual damages, in addition to any other remedies available at law or in equity. Vendor waives the defense that an adequate remedy at law exists for any breach or threatened breach of this SOW and waives the requirement of a bond for injunctive relief as a remedy to protect against any breach or threatened breach of this SOW.

## **10. PERSONAL DATA**

**10.1** In providing the Services and Deliverables, Vendor may have access to or use Personal Data relating to Arise employees, Arise subcontractors, the Client's customers and others. Vendor will only use Personal Data for the sole and exclusive purpose of fulfilling its obligations under this SOW and may not use or permit the use of Personal Data for any other purpose whatsoever.

**10.2** Vendor acknowledges and agrees that Personal Data is the property of the individual who provided such information and Vendor has no ownership interest or other rights in and to such information.

**10.3** Vendor will remain in compliance with all applicable federal, state and other applicable statutes, regulations, ordinances, and orders with respect to privacy and data security relative to Personal Data and will implement and, at all times during the Term of this SOW, maintain an effective information security program to